



IFW

Atty. Dkt. No. 039861-0112

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Michael SCHINDZIELORZ et al.
Title: LAMINATED SPACER FABRIC
Appl. No.: 10/829,397
Filing Date: 4/22/2004
Examiner: Cheryl Ann Juska
Art Unit: 1771

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the restriction requirement set forth in the Office Action mailed March 22, 2006, Applicants hereby provisionally elects Group I. Furthermore, in response to the additional species election for the cover layer and the porous material, Applicants hereby provisionally elects leather and spacer fabric, respectively. Claims 1-3, 9-29, 31-41, 44, 45, 53 and 54 are readable on the elected invention.

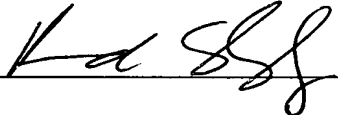
Applicants also traverse the restriction requirement between claims 40 and 50-52. According to MPEP § 806.05(j) (cited on page 2 of the Office Action), "the inventions are distinct if ... the inventions as claimed do not overlap in scope, i.e., are mutually exclusive." Claims 50-52 depend from claim 40 and, thus, necessarily overlap and are not mutually exclusive. Thus, the restriction requirement is improper between, at least, claims 40 and 50-52.

Applicants, of course, reserve the right to file one or more divisional applications covering the non-elected subject matter and/or to receive consideration of claims to additional species as provided by 37 C.F.R. § 1.141, upon allowance of any claim that is generic.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Respectfully submitted,

Date 4/24/2006

By 

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5582
Facsimile: (202) 672-5399

Howard N. Shipley
Attorney for Applicant
Registration No. 39,370